

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Javan Moore,

Plaintiff,

v.

Nurse Susan Blackwell; Frank T. Osrecher
(Spartanburg City Public Safety Officer);
Sheriff Chuck Wright of Spartanburg
Detention Center,

Defendants.

No. 4:12-cv-756-RMG

ORDER

This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge recommending that this Court grant Defendants’ motion for summary judgment. (Dkt. No. 92). For the reasons set forth below, the Court agrees with and adopts the R&R as the order of the Court.

Background

Javan Moore (“Plaintiff”), a state prisoner proceeding *pro se*, brings this action pursuant to 42 U.S.C. § 1983. Pursuant to the provisions of 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(d) DSC, this case was automatically referred to a United States Magistrate Judge for pretrial handling. At all times relevant to Plaintiff’s complaint and amended complaint he was detained at the Spartanburg County Detention Facility (“SCDF”). Plaintiff complains his rights were violated by substandard medical care and by his placement on the second floor of the SCDF. On July 2, 2013, Defendants Wright and Moore filed a motion for summary judgment. (Dkt. No. 74). Plaintiff then filed a response in opposition to the motion. (Dkt. No. 79). The Magistrate Judge then issued the present R&R on October 28, 2013. (Dkt. No. 92). Plaintiff then failed to file timely objections to the R&R.

Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R&R to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

Discussion

After review of the record and the R&R, the Court finds that the Magistrate Judge applied sound legal principles to the facts of this case and therefore agrees with and wholly adopts the R&R as the order of the Court. The Court agrees with the Magistrate Judge that this case should be dismissed as to all Defendants because Plaintiff’s amended complaint makes no allegations against any of them specifically or states a reason why they are responsible for his alleged injuries. Further, the Court agrees with the Magistrate Judge that the record would also support granting summary judgment in favor of Defendants because Plaintiff has not established a genuine issue of fact that the medical care he received or his placement within the SCDF amounted to deliberate indifference or cruel and unusual punishment under the Eighth Amendment.

Conclusion

For the reasons set forth above, the Court agrees with and adopts the R&R of the Magistrate Judge as the order of the Court. (Dkt. No. 92). Accordingly, Defendants’ motion for summary judgment is GRANTED, (Dkt. No. 74), and this action is dismissed with prejudice.

AND IT IS SO ORDERED.


Richard Mark Gergel
United States District Court Judge

November 21, 2013
Charleston, South Carolina